

Applicant : Patrick Leahy  
Serial No. : 10/553,929  
Page : 7

### **REMARKS**

The foregoing amendments and following comments are responsive to the Office Action mailed December 10, 2008. Reconsideration of the claim rejections is requested in light of these comments and the foregoing claim amendments.

#### **Status of Claims**

Claims 1-29 were pending in this application prior to this amendment. By way of this amendment, claims 2 and 3 have been cancelled and the subject matter thereof has been incorporated into claim 1. Claims 4-5 have also been cancelled. New dependent claims 30 and 31 have been added, which replace the subject matter previously found in dependent claims 4 and 5.

#### **Claim Objections**

Dependent claims 4 and 5 were objected to for having been improperly amended. Specifically, the preliminary amendment filed October 20, 2005 amended claim 4 to be claim 5, and claim 5 to be claim 4. This amendment was objected to in the latest Office Action. In order to rectify this error, dependent claims 4 and 5 have been cancelled herein and new dependent claims 30 and 31 have been added. New claim 30 corresponds to originally filed claim 5 (previously amended to be claim 4), and new claim 31 corresponds to originally filed claim 4 (previously amended to be claim 5). No new matter has been added by way of these amendments, and Applicant submits that these amendments should overcome the objections noted in the latest Office Action.

Dependent claim 9 was also objected to because of the typographical error contained in the phrase "to 1 claim in." Claim 9 has been amended to correct this error.

While not objected to, dependent claim 17 has also been amended herein to remove an unintended multiple dependency. Claim 17 is now dependent upon claim 9, rather than claims 9 through 16.

Dependent claim 7 has also been amended herein in order to maintain its consistency with the amendments made to independent claim 1, from which it depends.

Applicant : Patrick Leahy  
Serial No. : 10/553,929  
Page : 8

### **Claim Rejections**

Independent claim 1, which is the only independent claim pending, was rejected in the last Office Action for allegedly being anticipated by two separate references: U.S. Patent 6,375,668 issued to Gifford and U.S. Patent 6,368,338 issued to Kónya. These rejections are addressed separately below.

Claim 1, as amended, includes the subject matter of former dependent claims 2 and 3. Amended claim 1 now specifies that the device comprise means for retaining the parietal surgical implant within the body in the collapsed state, the retaining means being in the form of a sleeve within which the implant is locatable, the sleeve being displaceable relative to the implant in order to expose the implant. Thus, amended claim 1 now recites that the device comprises both a body (12) and a sleeve (24).

In the Office Action of December 10, 2008, former dependent claims 2 and 3 were rejected for being anticipated by Kónya et al (U.S. Patent 6,368,338). Page 3 of the Office Action stated that the device of Kónya et al comprises a body 40 and a sleeve 40 for retaining the parietal surgical implant within the body (see lines 2 and 8 of page 3). The Office Action also stated that the “parietal surgical implant is locatable within the body (figure 19),” although referring to figure 19 it is clear that the body to which the Office Action is referring is in fact the human body, and not a body of the device of Kónya et al. Claim 1 now specifies that there is a body and a sleeve, which are two separate components of the device, while in the device of Kónya et al it would appear that there is either a body or a sleeve, and not both. It is therefore respectfully submitted that the device of Kónya et al does not anticipate nor render obvious amended claim 1.

Independent claim 1, as well as dependent claims 9, 16, 21, 22, and 23, were also rejected for allegedly being anticipated by U.S. Patent 6,375,668 issued to Gifford. Turning to the Gifford reference, it is noted that no objection was raised in the last Office Action with respect to the subject matter of original claims 2 and 3 in light of the Gifford reference. It is therefore submitted that amended claim 1, which now includes the subject matter of former claims 2 and 3, is neither anticipated nor rendered obvious in light of the Gifford reference.

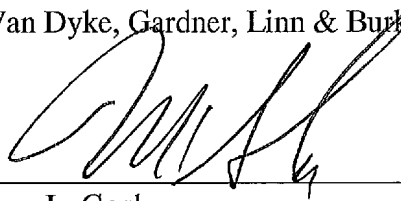
Applicant : Patrick Leahy  
Serial No. : 10/553,929  
Page : 9

In light of the foregoing comments, it is respectfully submitted that claim 1 is in a condition for allowance. It is also respectfully submitted that all of the remaining claims, which are ultimately dependent upon independent claim 1, are also in a condition for allowance for at least the same reasons that claim 1 is allowable. A notice to such effect is requested.

Respectfully submitted,

PATRICK LEAHY

By: Van Dyke, Gardner, Linn & Burkhardt, LLP



Date: March 10, 2009.

---

Matthew L. Goska  
Registration No. 42 594  
2851 Charlevoix Drive, S.E., Suite 207  
P.O. Box 888695  
Grand Rapids, Michigan 49588-8695  
(616) 975-5500

MLG:ars